



Metropolitan Police Department
Office of Professional Responsibility
Civil Rights & Force Investigations Division
MOA Compliance Monitoring Team



Metropolitan Police Department
and
U. S. Department of Justice

Memorandum of Agreement
Progress Report



JANUARY 12, 2004

“We must become the change we want to see.”

-Mahatma Gandhi

I n t r o d u c t i o n

In January 1999, Chief Ramsey and District of Columbia Mayor Anthony Williams asked the United States Department of Justice to review the Metropolitan Police Department's (MPD) practices as they related to police use of force. In March 2001, the U.S. Department of Justice (DOJ) concluded its review, and later entered into a Memorandum of Agreement (MOA) with the District of Columbia and the Metropolitan Police Department on June 13, 2001. The Agreement built upon the work MPD started during the course of the review, and provided that an Independent Monitor would evaluate the implementation of the Agreement. When the balance of the reforms contained in the Agreement are implemented, the Metropolitan Police Department will be a model for the nation on how to uphold the rule of law while using force only when and to the extent necessary.

This progress report is the eighth submitted by the Department's Compliance Monitoring Team (CMT). The Compliance Monitoring Team, part of the Office of Professional Responsibility (OPR), was created by Chief of Police Charles H. Ramsey to ensure the timely implementation and compliance of the Memorandum of Agreement. This quarterly report reflects MPD's Memorandum of Agreement activity from October 1, 2003, through December 31, 2003.

This quarterly report reflects MPD's Memorandum of Agreement activity from October 1, 2003, through December 31, 2003.

MPD's quarterly reports are required by the Memorandum of Agreement (MOA Paragraph 175). They have been designed by the MPD to share its MOA-related activities not only with the U.S. Department of Justice and the Office of the Independent Monitor (OIM), but also throughout the Metropolitan Police Department and the citizenry at large. Furthermore, there is an addendum to this quarterly report that lists all of the MOA paragraphs and the status of each item.

The Metropolitan Police Department continues to be pleased with the progress made by the Department during this reporting period. MPD is very pleased to report that DOJ approved three important MOA-related policies on December 31, 2003:

- *Serious Misconduct General Order* (MOA Paragraph 72)

- *Community Outreach Program for Filing Citizen Complaints* (MOA Paragraph 91)
- *Force Investigation Team Organizational Plan and Operations Manual* (MOA Paragraph 57)

The Department again focused a great deal of resources on the Personnel Performance Management System (PPMS) during this quarter. PPMS is an MOA-mandated system that will be a "a computerized relational database for maintaining, integrating, and retrieving data necessary for supervision and management of MPD and its personnel."¹ During the previous quarter, DOJ and MPD agreed to a second modification to the MOA.² The purpose of the modification was to negotiate new deadlines for MOA activities related to PPMS. MPD continued to work this quarter toward meeting the new deadlines for PPMS.

During the last quarter, CRISNet Incorporated and IBM were selected to develop PPMS. IBM/CRISNet began work with the Department in September 2003. During this quarter, IBM/CRISNet worked very closely with MPD to finalize the development of system requirements. MPD and IBM/CRISNet engaged in a Joint Application Development (JAD) process to confirm system requirements as well as identify requirements that may have been previously missed. A more detailed discussion of the JAD sessions and other PPMS activities can be found later in this report.

During this quarter, MPD also contacted DOJ regarding MOA Paragraph 172.³ On October 9, 2003, MPD requested that DOJ consider a modification of Paragraph 172 to remove the provision that allows for the reopening of misconduct investigations deemed incomplete by the Office of the Independent Monitor (OIM). MPD made this request because MPD believed that altering the current administrative process to allow the OIM sufficient time to review investigations, prior to officer notification, would create an unnecessary administrative and financial burden on MPD. Instead, MPD proposed that MPD and the OIM use the current process, where the OIM is able to review misconduct cases and provide an analysis of the completeness of those cases in the OIM Quarterly Reports, is sufficient to address the spirit of the MOA. On November 18, 2003, DOJ granted the request to modify the paragraph and remove the provision. A more detailed discussion of the modification to Paragraph 172 can be found in the *Investigations* section of this report.

¹ MOA Paragraph 106

² See *Joint Modification No.2 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department, September 30, 2003*

³ MOA Paragraph 172 reads, "“Subject to the limitations set forth in this paragraph, MPD shall reopen for further investigation any misconduct investigation the Monitor determines to be incomplete. The Monitor shall provide written instructions for completing the investigation. The Monitor shall exercise this authority so that any directive to reopen an investigation is given within a reasonable period following the investigation's conclusion. The Monitor may not exercise this authority concerning any misconduct investigation which has been adjudicated or otherwise disposed, and the disposition has been officially communicated to the officer who is the subject of the investigation”.

MPD also worked with the OIM during this quarter in coordinating access to MPD facilities. The OIM continued its practice of reviewing all FIT investigations and a random selection of use of force and misconduct investigations in order to assess compliance with the MOA.⁴ The OIM also devoted time this quarter to meeting with MPD's Department Disciplinary Review Office (DDRO) to review members' disciplinary records. A more detailed discussion of the OIM's activities can be found in the "Independent Monitor" section of this report.

The Office of the Independent Monitor continued the task of defining of how they will measure "substantial compliance" for the MOA. Paragraph 182 of the MOA states:

"The Agreement shall terminate five years after the effective date of the Agreement if the parties agree that MPD and the City have substantially complied with each of the provisions of this Agreement and maintained substantial compliance for at least two years."

The OIM completed a draft compliance document that provided proposed compliance definitions for 62 of the 194 MOA paragraphs. The OIM plans to move forward with completing the document, with significant input from both DOJ and MPD, over the coming months. Formally defining "substantial compliance" for a DOJ Memorandum of Agreement of this kind is a new concept. There are only a few agencies nationwide that have undertaken such an effort with regards to a federal consent decree. Accordingly, the OIM, MPD, and DOJ have had a number of discussions to determine a reliable and fair methodology that will ensure MPD has "substantially complied" with the provisions of the MOA. MPD looks forward to continuing to work with DOJ and the OIM on this very important document.

In addition to the activities discussed above, the Metropolitan Police Department continued approved-policy implementation activities, and continued to work with the Office of Citizen Complaint Review (OCCR) to revise the Memorandum of Understanding (MOU) between the two agencies (MOA Paragraph 85). Finally, MPD also submitted a number of additional deliverables for DOJ review this quarter including a revised *Canine Teams General Order* (MOA Paragraphs 44-26), a revised *Use of Force Incident Report* (UFIR) (MOA Paragraph 53), a revised *Specialized Mission Unit General Order* (MOA Paragraphs 150-158), and a draft *Personnel Performance Management System (PPMS) General Order* (MOA Paragraph 111, 112, 114c).

The Metropolitan Police Department is proud of its recent Memorandum of Agreement compliance efforts, and is confident that MPD is continuing on its way to becoming a

⁴ It should be noted that both Force Investigation Team (FIT) and Office of Citizen Complaint Review (OCCR) cases are not included in the random sample.

model for the nation on how to uphold the rule of law while using force only when and to the extent necessary.

Compliance Monitoring Team

The Compliance Monitoring Team (CMT) was created by Chief of Police Charles H. Ramsey in February 2002, to ensure the timely implementation of and compliance with the Memorandum of Agreement (MOA). The CMT falls under the Civil Rights & Force Investigations Division, located within the Office of Professional Responsibility. The CMT continued its activities during this reporting period, and coordinated a variety of Memorandum of Agreement efforts. During this quarter, members of the Compliance Monitoring Team also worked closely with the Department's PPMS project leaders and other stakeholders on PPMS-related aspects of the Memorandum of Agreement.

The CMT has continued to provide support to various Department elements to assist them in completing MOA deliverables, and to facilitate compliance documentation. CMT members met with representatives from Canine Unit to discuss appropriate revisions to the Canine Team General Order. The CMT met with leadership of the Fraternal Order of Police on October 9, 2003 to discuss the FOP's concerns with the MOA and also met with members of the Institute of Police Sciences on November 7, 2003 to discuss various MOA compliance activities. CMT representatives had a number of discussions with the Office of Citizen Complaint Review (OCCR) to help resolve outstanding issues surrounding the Memorandum of Understanding between MPD and OCCR (MOA Paragraph 85). In addition, the CMT remains the central repository for MPD's Memorandum of Agreement documents, and has been documenting and transmitting draft policies and other deliverables to DOJ and the Office of the Independent Monitor (MOA Paragraph 173).

General Orders and Policies

Previously, the U.S. Department of Justice approved several seminal use-of-force related policies. They include:

- *Use of Force General Order* (MOA Paragraphs 37-40)
- *Use of Force Investigations General Order* (MOA Paragraph 53)
- *Use of Force Incident Report* (MOA Paragraph 53)
- *Handling of Service Weapons General Order* (MOA Paragraphs 41 and 43)
- *Canine Teams General Order* (MOA Paragraphs 45 and 46)
- *Oleoresin Capsicum Spray General Order* (MOA Paragraphs 47-50)

- *Force Investigation Team Organizational Plan and Operations Manual* (MOA Paragraph 57)
- *Force Related Duty Status Determination General Order*
- *Carrying Weapons and Transporting Prisoners Aboard Aircraft General Order*
- *Use of Force Review Board General Order* (MOA Paragraph 67)
- *The Office of Internal Affairs Operational Manual* (MOA Paragraph 72)
- *Serious Misconduct General Order* (MOA Paragraph 72)
- *Community Outreach Program for Filing Citizen Complaints* (MOA Paragraph 91)

Pending Reengineered Policies

During this reporting period, the Metropolitan Police Department and the U.S. Department of Justice exchanged a variety of detailed correspondence concerning numerous draft Department policies and procedures. They are listed in order of last activity unless otherwise noted. A status matrix containing all of the MOA paragraphs is submitted as an attachment with this report.

MPD submitted a revised version of its approved *Canine Teams General Order* (MOA Paragraphs 45 and 46) to DOJ for review on June 4, 2003. DOJ provided comments on that order on July 25, 2003. In their July 25, 2003 letter, DOJ also promised to provide specific recommended policy revisions that DOJ believes are consistent with the Memorandum of Agreement requirements and the parties' previous agreements. On September 30, 2003, DOJ provided the policy recommendations to guide MPD's revisions of the *Canine Teams General Order*. On December 31, 2003 MPD provided a revised general order to DOJ along with a detailed response to all of DOJ's recommended policy revisions.

The Metropolitan Police Department submitted a draft *Specialized Mission Units General Order* (MOA Paragraphs 150-158) to DOJ on October 4, 2002. DOJ provided comments on the order on January 31, 2003. MPD provided a revised draft of the order on June 30, 2003. DOJ provided comments on the order on August 25, 2003. MPD submitted a revised order, along with a copy of the revised *Specialized Mission Unit After Action Report* on December 31, 2003.

MPD submitted a revised *Specialized Mission Unit General Order*, along with a copy of the revised *Specialized Mission Unit After Action Report* to DOJ on December 31, 2003.

The Metropolitan Police Department submitted a draft *Chain of Command Misconduct Investigations General Order* (MOA Paragraph 83) to DOJ on November 1, 2002. DOJ provided comments on the order on January 31, 2003. MPD provided an update on the general order to DOJ on December 31, 2003.

The Metropolitan Police Department submitted a draft *Administrative Investigations Manual* (MOA Paragraph 83) to DOJ on October 25, 2002. DOJ provided comments on the Manual on March 26, 2003. Part of the requirement of MOA Paragraph 83 is that MPD develop a template to assist investigators with completing their misconduct investigations. Through the PPMS JAD process, MPD realized that the template should be included in the PPMS system to ensure that consistent, comprehensive information is collected regarding misconduct investigations. However, in order to accomplish this, MPD needs to submit the template to IBM/CRISNet by January 12, 2004 to ensure that it is included in the design of the system. Given that the template requires DOJ approval, MPD requested that DOJ expedite the review of the investigative templates and review the templates separate from the manual itself. DOJ agreed to MPD's proposal, and the template was submitted to DOJ for review on December 30, 2003. MPD is continuing work on finalizing the manual.

The Metropolitan Police Department submitted a draft *Citizen Complaint General Order* (MOA Paragraph 94) to DOJ on October 4, 2002. DOJ replied with detailed comments on November 25, 2002. MPD forwarded the draft to the District of Columbia Office of Citizen Complaint Review (OCCR) on December 27, 2002. The Office of Citizen Complaint Review provided their comments to MPD on January 17, 2003. After completion of the draft MPD OCCR MOU on October 7, 2003, MPD incorporated relevant portions of the MOU into the general order and shared a revised draft of the order with OCCR on December 8, 2003. OCCR provided comments on December 10, 2003. MPD is currently reviewing and incorporating those comments. MPD is very pleased with the extensive interaction between the MPD and OCCR during this quarter. This interaction is described later in this report.

The Metropolitan Police Department submitted a draft *Enhanced Performance Evaluation System Protocol* (MOA Paragraph 118) to DOJ on November 8, 2002. DOJ provided comments on the protocol on May 2, 2003. MPD provided a status report on those comments on September 30, 2003. On October 6, 2003, DOJ provided comments on the update by email. MPD is currently reviewing those comments.

The Metropolitan Police Department submitted a draft *Canine Operations Manual* (MOA Paragraph 147) to DOJ on November 27, 2002. DOJ provided comments on the manual on September 30, 2003. MPD is currently reviewing those comments.

The Metropolitan Police Department submitted a draft *Enhanced Field Training Officer Program Protocol* (MOA Paragraph 121f) to DOJ on December 6, 2002. DOJ provided comments on MPD's protocol on September 30, 2003. MPD is currently reviewing those comments.

In addition, on November 27, 2002, MPD submitted a draft plan to limit the number of hours worked by MPD officers in any 24-hour period and in any seven-day period (MOA

Paragraph 159). The MOA notes that all parties acknowledge that the implementation of such a policy may consider any limitations related to labor agreements. Since the submission of the plan, MPD has developed a draft general order. On September 30, 2003 DOJ requested a status update on progress with that order. MPD is currently working on a response to DOJ's request.

A draft *Disciplinary Policy* (MOA Paragraph 105) was submitted to DOJ for review on May 19, 2003. It is noted that the draft policy was due to DOJ during the renegotiated period of the week of November 17, 2002. However, as previously reported, MPD shared a draft of the order with the Fraternal Order of Police (FOP) for comment. Prior to November 17, 2002, the FOP indicated that they had concerns with aspects of the draft order. MPD notified DOJ of those concerns and chose to delay the submission of the draft order to address the FOP's concerns. MPD believes that the interaction with the FOP has been beneficial, and that addressing many of the FOP's concerns now will ease implementation efforts once the final draft is approved. DOJ provided comments on the draft Discipline Order on August 25, 2003. MPD is reviewing those comments in consultation with the FOP.

MPD is also working on the completion of a policy to address the amendment approved by the District of Columbia City Council that permits MPD's Chief of Police to designate his own policy as to when off-duty officers are required to carry their service pistols in the City (MOA Paragraph 42). The amendment, entitled the "Off-Duty Service Pistol Authorization Amendment Act of 2002," was contained in the Fiscal Year 2003 Budget Support Act of 2002 and became law on October 1, 2002. MPD is working on finalizing its policy so that it can be issued to the MPD members.

Timelines

In September 2002, the Metropolitan Police Department and the U.S. Department of Justice negotiated new deliverable timelines and agreed to a modification of the MOA. The timeline issues excluded from the first modification were the dates that applied to the Personnel Performance Management System (PPMS). As discussed in the last quarterly report, on September 30, 2003, a second modification to the MOA was signed to renegotiate the outstanding deadlines surrounding the PPMS related deliverables of the MOA. An updated status of the PPMS project and the various PPMS deliverables is included later in this report.

Use of Force Incident Report

As previously reported, the development and implementation of the *Use of Force Incident Report* (UFIR) raised numerous issues for the Metropolitan Police Department.

The UFIR form continued to raise concerns among the Fraternal Order of Police and the rank and file. In the early stages of implementation, MPD had engaged in several activities to inform members about the form and its purpose. However, many members involved in a force incident (or a pointing of a firearm at a person) declined to fill out the form until a declination was issued by the U.S. Attorney's Office for the District of Columbia (USAO) or a "Reverse-Garrity" warning was authorized.

MPD realized that it needed to develop procedures in order to address this situation. After lengthy consultations with DOJ and the USAO, a new policy was developed in which specified managers of the Force Investigation Team were authorized to issue "Reverse-Garrity" warnings in limited circumstances after designated information was obtained. Further, MPD and the USAO identified specific criteria to be met for a USAO review and "Reverse-Garrity" situations. Since the inception of this policy twenty-eight (28) Reverse-Garrity warnings have been issued. MPD feels this policy has helped to ensure the completion of UFIRs.

MPD also continues to provide monthly reports to both DOJ and the OIM regarding use of force incidents and UFIR completion. Both DOJ and the OIM had raised concerns regarding the completion rate for UFIRs. MPD has worked to ensure that all UFIRs are completed in a timely manner. The Office of Professional Responsibility began creating a report this quarter for the Executive Assistant Chief of Police. The report lists all of the outstanding UFIRs by District. District Commanders are then reminded of these outstanding UFIRs so they can ensure they are forwarded to OPR. Also, during the last quarter, MPD revised the way in which it reports UFIR completion. Previous to July 2003, MPD reported the number of use of force incidents requiring a UFIR and the number of UFIRs completed. However, these numbers did not take into account cases that were being reviewed by the United States Attorney's Office (USAO). Officers cannot be compelled to provide statements regarding a use of force incident prior to a written criminal declination from the USAO. Accordingly, MPD now includes the number of cases being reviewed by the USAO with its monthly UFIR reports to DOJ and the OIM. MPD's Office of Internal Affairs has also worked with its agents to ensure that they follow up with the police districts regarding completion of UFIRs.

MPD has continued efforts to revise the UFIR to make it more user-friendly. MPD had obtained feedback from officers that the form, particularly the layout, was complicated and confusing. MPD believed that such confusion contributed to officer frustration with the UFIR. As a result, MPD updated and reformatted the UFIR form, and submitted the proposed form along with a detailed explanation for each proposed change to DOJ on November 20, 2002. On March 19, 2003 DOJ provided detailed written feedback on the proposed form. MPD agreed to DOJ's recommendations regarding the UFIR, and submitted a revised UFIR that incorporated all of DOJ's suggestions on December 10, 2003. A copy of the revised UFIR is included in the Appendix of this report.

Upon DOJ's approval of the revised form, MPD will implement the revised form and post an electronic version on the Department's Intranet. We appreciate DOJ's willingness to work with MPD on these revisions, and MPD is confident that the revised form will be a significant improvement over the existing UFIR.

Pointing of a Weapon at or in the Direction of a Person

In the December 10, 2003 letter to DOJ, MPD also discussed MOA Paragraph 53. Paragraph 53 states that MPD's use of force policy shall, "...require officers to complete a Use of Force Incident Report immediately following the drawing of and pointing of a firearm at, or in the direction of, another person..." Based on MPD's experience with this requirement during the past year, and based on concerns raised by the Fraternal Order of Police, MPD proposed revisiting this requirement and modifying the MOA.

MPD agrees that tracking the pointing of a weapon at or in the direction of a person is important. However, MPD does not feel that this information needs to be tracked on a Use of Force Incident Form per se. The MOA does not include the pointing of a weapon in its definition of use of force⁵, and MPD considers the pointing of a weapon to be a reportable action. However, MPD is also very mindful of the concerns of the Fraternal Order of Police (FOP). The FOP has repeatedly raised concerns that capturing a "pointing" incident on a UFIR, but not classifying it as a use of force, can be viewed as somewhat misleading. The pointing of a weapon has never been considered a use of force by the Department and is not taught as a use of force option. Yet the MOA requires that officers document "pointing" on a "Use of Force" form. The form has been in place now for over a year, and MPD has been exploring possible ways of balancing the needs of meeting the spirit of the MOA by ensuring these incidents are captured and addressing the continuing concerns of MPD officers.

Accordingly, MPD has developed a draft *MPD Reportable Incident Form*. The new form provides a mechanism for tracking "pointing" incidents without associating them with a use of force. Members would complete this form anytime they draw and point their weapons at or in the direction of another person. The UFIR would still be used to capture use of force incidents and allegations of excessive force made at the scene of the incident.

MPD has been very pleased with our improved interaction with the FOP on MOA issues. The FOP's input on various general orders and in helping with the development the Personnel Performance Management System (PPMS) has been invaluable. However, capturing the pointing of a weapon on the UFIR has been a serious, continuing concern of the FOP. MPD feels that capturing this information on an alternate form, and further clarifying that "pointing" is not considered a use of force will help to foster the improved working relationship that we have with the FOP. MPD hopes that this form will help to

⁵ MOA Paragraph 35.

address the concerns of the rank and file members while preserving the intent of the MOA to capture these actions. A copy of the proposed *MPD Reportable Incident Form* is included in the Appendix of this report.

Specialized Mission Unit Use of Force Reporting

Finally, as previously reported, MPD sought to amend the reporting requirements for the UFIR form as it relates to select MPD Specialized Units for incidents when multiple members of those units point their service weapon under specific enumerated circumstances. (Examples of Specialized Mission Units include the Emergency Response Team (ERT) and the Warrant Squad.) Specifically, MPD is concerned about delays in operational efficiency when numerous members are engaged in specific activity where it is expected that most, if not all, members would be pointing their weapons (such as in a high risk warrant situation).

In a letter sent to DOJ on March 5, 2003, MPD proposed that members involved in such an incident would be exempt from having each member complete a UFIR. Instead, a unit manager would complete a *Specialized Mission Unit After-Action Report*. The Report would consist of a form with a memorandum from the unit manager to the Assistant Chief of the Office of Professional Responsibility thru the Assistant Chief of Operational Services (EAC). The unit manager would still be required to obtain the OPR complaint summary (CS) number⁶ and supply the names of all of the involved officers in accordance with current procedures. DOJ provided a response to this request on August 25, 2003. In their response, DOJ recommended some revisions to the proposed form as well as revisions to the draft *Specialized Mission Unit General Order*.

On December 31, 2003 MPD provided a revised *Specialized Mission Unit After-Action Report* along with a revised *Specialized Mission Unit General Order* that incorporated the policies and procedures for the *After-Action Report*. MPD has developed the following specific criteria for when a "pointing" incident can be recorded on a *Specialized Mission Unit After-Action Report*:

- The Specialized Mission Unit (SMU) is a permanent, established unit meeting the requirements established in SMU General Order.
- The SMU is operating as a team at the time of the incident.
- The SMU is led by a clearly identified police manager during the incident (a Lieutenant or above.)

⁶ OPR CS Numbers are internal numbers used to track reportable incidents such as the pointing of a weapon at or in the direction of a person or a use of force incident.

- The SMU is on a pre-planned operation.
- There is a clear mission (e.g. execution of a high risk warrant).
- Members are working in unison.

With the *After-Action Report*, MPD's goal is still to capture all pertinent information required in the UFIR and the proposed *MPD Reportable Incident Form*, but to do it in a single format (one after-action report completed by a manager rather than 15 individual, nearly identical reports). MPD feels that the revised *SMU General Order*, combined with the revised *After-Action Report* will accomplish this goal. A copy of the revised *After-Action Report* can be found in the Appendix of this report.

Communications & Community Outreach

On July 26, 2002, the Metropolitan Police Department Office of Corporate Communications submitted a communications plan to DOJ regarding the Memorandum of Agreement. However, subsequent to that date, new outreach deliverable timelines were agreed upon. A revised communications plan reflecting the new outreach dates was completed and submitted to DOJ on November 1, 2002.



MPD Civil Rights and Force Investigation Division Homepage

The Metropolitan Police Department Office of Corporate Communications has been the primary generator of MOA-related communications materials and activities. The Command Staff of MPD and the Compliance Monitoring Team have also played an active role in MOA communications activities.

Communication activities have involved both internal and external stakeholders. They have involved sharing information about the MOA, new Department policies and procedures, as well as processes for filing citizen complaints.

The Citizen Complaints and Use of Force section on the MPDC website launched earlier this year continues to be a source for providing information to the public regarding MPD's efforts.⁷ In October, MPD posted the most recent quarterly statistics on use of force on the MPD website (MOA Paragraph 160). In addition, copies of all of MPD MOA progress reports are posted on the website.⁸

The MPD continues to embrace the concept of multiple conduits for citizens to file citizen complaints. In addition to traditional complaint reporting methods, citizens can call a toll free telephone number (800-298-4006), email complaints to oprcompl@mpdc.org, fax complaints to (202 727-5116); and hearing impaired stakeholders can file complaints via TDD at 202-898-1454 (MOA Paragraph 92). Detailed specific information on how to file a citizen complaint is also available on the MPD website.

Office of Citizen Complaint Review (OCCR)

In the District of Columbia, the investigation of MPD police officers involves both the Metropolitan Police Department and the Office of Citizen Complaint Review (OCCR). The District government enacted a law in 1999 establishing the Office of Citizen Complaint Review (OCCR) and the governing Citizen Complaint Review Board (CCRB). The mission of OCCR is to investigate, settle and adjudicate complaints of misconduct filed by the public against officers of the Metropolitan Police Department in an independent, fair and timely manner.

As previously reported, MPD IPS representatives continue to work with the Office of Citizen Complaint Review to develop specialized training on use of force for members of the Citizen Complaint Review Board (CCRB) and OCCR complaint examiners. This training will aid both CCRB and the complaint examiners in their duties. IPS and OCCR have also continued work on developing a curriculum for OCCR investigators (MOA Paragraph 96). In addition, OCCR sent representatives to an informal session with several MPD recruit classes in order to discuss OCCR's mission and responsibilities. Both IPS and OCCR feel the session provided a good understanding of OCCR's roles and responsibilities to MPD recruits.

Previously, a Memorandum of Understanding (MOU) was signed by representatives of both agencies on September 28, 2002. The MOU addressed information sharing, training, complaint intake & referral, witness interviews, and other items. Additionally, MPD has included information and links to the OCCR on its website, and has included information about the OCCR in its printed materials.

⁷ http://www.mpdc.dc.gov/serv/citizencomplaints/file_complaint.shtm

⁸ Quarterly Force Statistics and MPD MOA Progress Reports can be found online at:
http://mpdc.dc.gov/serv/citizencomplaints/crfid_reports.shtm

As previously noted, DOJ and the OIM identified conflicts within the Memorandum of Understanding that did not comport with enumerated requirements in the Memorandum of Agreement. Further, many jurisdictional and process disagreements remained between the agencies, despite the signing of the Memorandum of Understanding.

During the course of this year, representatives from each agency met to discuss revisions to the Memorandum of Understanding and to discuss outstanding issues. The agencies met several times during the last quarter and both MPD and OCCR feel that the meetings were very productive. Both agencies were able to agree to a number of revisions to the MOU, including in the areas of information exchange and training for OCCR investigators. Accordingly, MPD and OCCR submitted a revised MOU to DOJ on October 7, 2003. However, it was noted that one outstanding issue remains between the two agencies. MPD and OCCR are continuing discussions regarding the duties of the MPD Member of Citizen Complaint Review Board.

On December 3, 2003, DOJ contacted MPD and OCCR to express concern regarding the delay in finalizing the MOU. Although MPD is mindful of DOJ's desire to review "final" documents, on December 31, 2003 MPD contacted DOJ to request that DOJ move forward with their review prior to resolution of the duties of the MPD member of CCRB. Given that DOJ does not have formal approval over the MOU, and given that the remaining issue has no significant link to the MOA, both MPD and OCCR agreed that it would be beneficial to have the DOJ review begin so that the document can ultimately be signed as soon as possible.

MPD is confident that these revisions will result in an MOU that fully comports with the Memorandum of Agreement and that creates a solid blueprint for the agencies' exchange of information.

I n v e s t i g a t i o n s

Use of force and police officer misconduct investigations fall under the purview of the Office of Professional Responsibility (OPR). OPR determines which MPD unit will be responsible for the investigation of specific incidents. Within OPR, there are two primary organizational elements that conduct investigations: the Force Investigation Team (FIT) and the Office of Internal Affairs (OIA). MOA Paragraph 61 requires that the Force Investigation Team investigate serious use of force incidents⁹ as well as use

⁹ MOA Paragraph 33 defines serious use of force as, "*lethal and less-than-lethal actions by MPD officers including: (i) all firearm discharges by an MPD officer with the exception of range and training incidents and discharges at animals; (ii) all uses of force by an MPD officer resulting in a broken bone or an injury requiring hospitalization; (iii) all head strikes with an impact weapon; (iv) all uses of force by an MPD officer resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the*

of force incidents indicating potential criminal conduct.¹⁰ Other use of force incidents are investigated by the member's chain of command officials and are referred to as "Chain of Command Force Investigations."

The Office of Internal Affairs is responsible for investigating allegations of "serious misconduct" as defined in MOA Paragraphs 72 and 73. Other allegations of misconduct are investigated by the member's chain of command officials and are referred to as "Chain of Command Misconduct Investigations."

Use of Force

Chief of Police Charles H. Ramsey established the Force Investigation Team in January 1999. The Force Investigation Team has evolved into the new national model for police use of force investigations. The team, which took a business-related perspective to force investigations, has been recognized internationally for its high quality investigations and unique approach to use of force issues.

Previously, investigative protocols were established to comply with the requirements of the Memorandum of Agreement. A copy of the revised *Force Investigation Team Organizational Plan and Operations Manual* reflecting these protocols was submitted to the Department of Justice on February 5, 2002, and to the Independent Monitor on April 8, 2002. On August 12, 2002, the MPD received detailed comments from DOJ regarding the FIT operational manual. MPD submitted a revised draft to DOJ on November 1, 2002. On March 26, 2003, DOJ provided MPD with additional comments on the manual. Modifications related to those changes were incorporated into the manual and the manual was resubmitted to DOJ on April 21, 2003. DOJ provided its most recent comments on August 25, 2003. MPD provided a revised version of the manual that incorporated all of DOJ's suggested edits, on September 29, 2003. FIT has worked very hard to provide a comprehensive operations manual that reflects the provisions of the MOA, and MPD was pleased to receive DOJ's approval of this important document on December 31, 2003.

The OIM has found FIT investigations to be of "high quality."¹¹ Accordingly, MPD has taken its FIT preliminary and final investigation templates and modified them for use by chain of command officials for their use of force investigations. MPD submitted these templates to DOJ August 26, 2003. While not specifically called for in the MOA, FIT created the templates in an attempt to ensure that all use of force

functioning of any body part or organ; (v) all other uses of force by an MPD officer resulting in a death; and (vi) all incidents where a person receives a bite from an MPD canine."

¹⁰ MOA Paragraph 35 states, "The term "use of force indicating potential criminal conduct by an officer" shall include all strikes, blows, kicks or other similar uses of force against a handcuffed subject."

¹¹ *Fourth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department*, April 29, 2003.

investigations throughout the agency are comprehensive and that they collect the information required by the MOA (primarily MOA Paragraph 65).

MPD received comments from DOJ on the templates on September 29, 2003, and MPD provided a response on December 31, 2003. MPD's goal is to post the templates on the Department's Intranet as soon as possible so they are accessible to all MPD supervisors. We believe these templates will be a valuable tool for chain of command supervisors in conducting force investigations and helping to ensure that the investigations are consistent and complete.

MPD has taken its FIT preliminary and final investigation templates and modified them for use by chain of command officials for their use of force investigations.

As previously reported, DOJ provided comments on FIT's training. On September 20, 2002, MPD provided both DOJ and the OIM a summary of the training received by the FIT Team from January 2000-September 20, 2002. The summary was submitted to demonstrate partial compliance with MOA Paragraph 84, specifically, *"MPD shall provide specialized training to investigators who conduct shooting investigations."* The submission included a summary by year for all FIT investigator training as well as an index containing descriptions of the training events. On September 30, 2003 DOJ provided comments on the FIT training summary. MPD is currently reviewing those comments.

During this quarter, FIT also continued to provide monthly updates to the OIM regarding use of force and UFIR statistics. FIT is committed to ensuring that the unit's activities continue to be in compliance with the MOA.

Office of Internal Affairs

DOJ, MPD and the OIM had a series of discussions, beginning in June, regarding MOA Paragraph 172. Paragraph 172 reads,

"Subject to the limitations set forth in this paragraph, MPD shall reopen for further investigation any misconduct investigation the Monitor determines to be incomplete. The Monitor shall provide written instructions for completing the investigation. The Monitor shall exercise this authority so that any directive to reopen an investigation is given within a reasonable period following the investigation's conclusion. The Monitor may not exercise this authority concerning any misconduct investigation which has been adjudicated or otherwise disposed, and the disposition has been officially communicated to the officer who is the subject of the investigation."

DOJ and MPD had been questioned by the OIM regarding the intent and the feasibility of the paragraph. Regarding the intent of the paragraph, DOJ and MPD agreed to the

inclusion of Paragraph 172 in the MOA because at the time of the MOA signing, there was no consistent policy for informing MPD officers accused of misconduct of the outcomes of investigations. However, as part of these recent discussions, DOJ indicated that if a policy existed for notification of officers, MPD and DOJ could explore modifying that paragraph of the MOA. Since the signing of the MOA, MPD's Office of Professional Responsibility (OPR) has implemented a policy of notifying subject officers of the disposition of their cases as soon as the investigation is complete.

MOA Paragraph 172 was also discussed when the OIM made a request that MPD reopen a misconduct investigation based on their review. However, the subject officer had already been notified of the outcome of the investigation, thereby nullifying the OIM's request to reopen the case. Subsequently, representatives from the OIM and MPD discussed possible procedures that would allow for delaying officer notification.

However, after careful consideration of the various proposals, MPD felt that imposing a delay into the investigative process was undesirable. MPD was concerned in creating any additional delays in notifying officers regarding case outcomes, and MPD was also concerned about additional administrative burdens for MPD in tracking the delays to allow the OIM to complete their review.

MPD does not wish to restrict the ability of the OIM to review misconduct investigations. However, given that DOJ was amenable to modifying this paragraph if OPR's notification policy was immediate, MPD was reluctant to introduce additional delays in completing investigations. MPD believes the current process, where the OIM is able to review misconduct cases and provide an analysis of the completeness of those cases in the OIM Quarterly Reports is sufficient to address the spirit of the MOA.

Accordingly, on October 9, 2003, MPD formally requested that DOJ consider a modification of MOA Paragraph 172 to remove the provision that allows for the reopening of misconduct investigations deemed incomplete by the Office of the Independent Monitor (OIM). On November 18, 2003, DOJ granted the request to modify the paragraph.

During this quarter, the Office of the Independent Monitor continued its practice of reviewing both FIT and OIA investigative reports. During this quarter, the OIM reviewed a random selection of misconduct and use of force cases. The investigations are reviewed by the OIM's police practice experts for compliance with the MOA. The selected sample consisted of approximately 80 investigations, with investigations randomly selected from each of the seven police districts and other MPD assignments. The OIM and MPD worked together this quarter to provide the police practice experts with copies of the selected cases. MPD and the OIM had previously clarified that FIT and OCCR investigations would not be considered part of the sample. The OIM devoted a significant amount of time this quarter to reviewing MPD misconduct and use of force investigations. The OIM also continued their practice of reviewing all completed FIT

investigations during the quarter. MPD looks forward to receiving feedback from the OIM on their review.

The OIM also reviewed 35 selected cases where misconduct allegations were "sustained." The OIM was interested in reviewing the discipline records for those officers to ensure that discipline was imposed. In preliminary discussions with the OIM regarding their review, the OIM raised concerns that the files maintained in the Department's Disciplinary Review Office (DDRO) did not contain records of some of the lower-level discipline that was issued.

In the past, DDRO maintained discipline records for officers involving what the Department terms, "adverse action." Adverse action includes any suspension, reduction in grade or pay, or removal from service of an employee. Lower-level discipline is referred to as "corrective action." Corrective action refers to unit-level discipline including dereliction reports, letters of prejudice, and official reprimands. Corrective action was historically kept in members' unit personnel folders. This folder is stored at the location where the member is assigned, and follows them if they are transferred.

However, on January 18, 2002, the Department issued a teletype establishing a centralized system for tracking all discipline cases involving sworn members (to include both adverse action and corrective action cases). This teletype was issued in order to support compliance with the MOA,¹² and requires that MPD unit or district commanders forward copies of all corrective action to DDRO. The goal of the teletype was to ensure that both corrective action and adverse action are tracked in a centralized location. However, the OIM's review revealed that copies are not consistently being forwarded to DDRO. The OIM promptly notified MPD of this issue, and it raised concern for the Department.

As a first step, the Executive Assistant Chief of Police re-issued the January 18, 2002 teletype on December 25, 2003. MPD will continue to work to address this issue and to ensure that appropriate processes are in place to ensure accountability.

During this quarter, the Office of Internal Affairs also continued to provide monthly updates to the OIM regarding the Complaint Summary (CS) Database. MPD's Office of Internal Affairs is committed to implementing the remaining reforms contained in the MOA and looks forward to continuing its work with the Office of the Independent Monitor.

¹² See MOA paragraphs 107h and 115.

Police Canine Teams

On May 4, 2000 the Metropolitan Police Department implemented an interim canine policy and began the initiation of significant improvements in its canine operations. The Department of Justice acknowledged these improvements in Paragraph 44 of the Memorandum of Agreement. DOJ approved MPD's *Canine Teams General Order*, and that policy was implemented in October 2002.

MPD is pleased with the progress of the implementation of the new *Canine Teams General Order*, and is extremely satisfied with the creation of the new *Canine Operations Manual*. However, as previously reported, the Office of Professional Responsibility conducted an assessment of MPD police canine incidents that occurred since the institution of the second Force Investigation Team in January 2002. While the overwhelming number of canine bites were justified and within policy, the assessment did raise some questions concerning on-lead canine bites and warning announcements related to canine deployment. Further, issues were raised concerning the shifts and squads involved in canine bite incidents. The OIM also raised several concerns in their April 2003 quarterly report.¹³ In response to these concerns, the Commander of the Special Operations Division (SOD) began to institute changes within the Canine Unit.

During the previous quarter, meetings were held between the Department of Justice and MPD to discuss these canine issues and to explore possible revisions to the approved *Canine Teams General Order*. Accordingly, MPD submitted a revised *Canine Teams General Order* to the Department of Justice for review on June 4, 2003. DOJ provided comments on the revised order on July 25, 2003. In their July 25, 2003 letter, DOJ also promised to provide specific recommended policy revisions that DOJ believed to be consistent with the Memorandum of Agreement requirements and the parties' understanding of the Agreement. On September 30, 2003, DOJ provided the policy recommendations to further guide MPD's revisions of the *Canine Teams General Order*.

On December 31, 2003, MPD submitted a revised *Canine Teams General Order* as well as specific responses to DOJ's policy recommendations for MPD's Canine Program. MPD appreciates DOJ's continued efforts in this area, and feel that DOJ's recommendations quickly identified that, for the most part, MPD and DOJ are in agreement, and that there are only a few areas where further discussion is needed.

DOJ's primary concerns were bites that were occurring while canines were "on-lead" and bites that were occurring without a warning being given. MPD agrees with this concern and has revised the *Canine General Order* to address these issues. MPD feels

¹³ Fourth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department, April 29, 2003.

that the revised general order along with training enhancements¹⁴ instituted by the Canine Unit will address the on-lead bite issue and will also ensure that warnings are given prior to all canine deployments. MPD is committed to ensuring that our canine program continues to result in the handler having total control over the canine. In Handler Controlled Alert Methodology, the canine methodology employed by MPD, the "decision" to bite is made by the handler and not by the dog.¹⁵

MPD's canine bite review in February 2003, combined with issues raised by the OIM and DOJ have resulted in a number of significant improvements to the Canine Unit:

- MPD continues to work with DOJ on revisions to the *Canine General Order* to ensure the Order clearly articulates the tenets of Handler Controlled Alert Methodology.
- MPD now considers all canine deployments "tactical" and is reinforcing, through both policy and training, the need to give warnings prior to all deployments.
- MPD's Canine Unit has added instruction regarding the concepts of a "decision point" and a "transition point" to canine training. During this instruction, handlers are asked to discuss options in making apprehensions without bites and how to deal with passive resistance.
- MPD's Canine Unit has also added instruction to ensure that all handlers can accurately articulate the mission of the Canine Unit as well as the definition of Handler-Controlled Alert Methodology.
- When conducting a canine bite investigation, Force Investigation Team (FIT) investigators are now required to ask canine handlers to articulate why their dog "bites" a subject.

Since the implementation of these changes, MPD has received favorable feedback from the OIM regarding the Canine Team. During the second quarter of 2003 the OIM reported, "We focused our training monitoring activities this quarter on canine training and were quite impressed with what we saw. Our police practices experts reviewed multiple canine training sessions at various stages of the canine training process. We

¹⁴ See "Transition Point" and "Decision Point" discussion, *Metropolitan Police Department and U.S. Department of Justice Memorandum of Agreement Progress Report, July 10, 2003*, p.14

¹⁵ The only circumstance under which a canine may contact/bite without handler command is if the canine, the canine handler, or another is threatened with possible attack.

found the canine training program to be well organized, appropriately structured, and well run.”¹⁶

MPD feels it is also important to note that since April 1, 2003, there have been ten (10) canine uses of force incidents that resulted in nine (9) bites and one (1) scratch. All ten (10) incidents occurred “off-lead” and the canine handlers gave proper warnings prior to searching for the suspect(s). Furthermore, the incidents were reviewed by the OIM and the United States Attorney’s Office (USAO) and none of the cases have been identified thus far as problematic.

MPD feels that the revised general order submitted to DOJ for consideration, along with all of the improvements identified above, have significantly improved our Canine Program and will sufficiently address the areas of concern raised internally as well as those raised by DOJ and the OIM.

In addition to the general order revisions, MPD also submitted its comprehensive Canine Lesson Plan and Training Curriculum to DOJ on October 4, 2002 (MOA Paragraph 145). The *Canine Operations Manual* was also developed (MOA Paragraph 147). A draft of the manual, which institutionalizes almost all MPD canine issues into one document, was completed and submitted to DOJ on November 27, 2002. DOJ provided comments on both the training curriculum and the manual on September 30, 2003. MPD is currently reviewing DOJ’s suggestions.

Additionally, to enhance community relations, the Canine Unit is continuing its community educational campaign with the distribution of “MPD Canine Trading Cards.” The information on the back of the cards helps the unit disseminate valuable information about the purpose of the canine and how to react when approached by a canine, as well as crime solving tips.

MPD’s Canine Unit continues to be committed to ensuring that their policies and practices adhere to the requirements and to the spirit of MOA. The Canine Unit will continue to work with the CMT and DOJ during the next quarter to finalize revisions to the *Canine Teams General Order*.

T r a i n i n g

Training and education are key aspects of the Metropolitan Police Department’s Use of Force management. Accordingly, the Maurice T. Turner Institute of Police Science (IPS) is tasked with the responsibility to train members of the Department on the reengineered MPD policies (MOA Paragraphs 84 and 129).

¹⁶ See *Fifth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department*, July 31, 2003, (Executive Summary, page 4.)

IPS has continued its efforts regarding compliance with the MOA. During the last quarter, IPS completed Fiscal Year (FY) 2003 In-Service Training. Over 2,800 officers, sergeants, lieutenants and captains were trained during FY 2003 in-service training on MOA-required topics (MOA Paragraphs 84 and 129).

MPD also continued its work on revising various lesson plans. Pursuant to MOA Paragraph 119 and 122, MPD submitted eleven (11) lesson plans that comprise its use of force curriculum to DOJ on July 24, 2002. The following lesson plans were submitted:

- ASP Tactical Baton Training Program– **DOJ APPROVED (09-30-03)**
- Close Quarter Combat– **DOJ APPROVED (09-30-03)**
- Controlled F.O.R.C.E. – **DOJ APPROVED (09-30-03)**
- Ground Fighting – **DOJ APPROVED (09-30-03)**
- Handcuffing – **DOJ APPROVED (09-30-03)**
- Krav/Maga – **DOJ APPROVED (09-30-03)**
- OC Spray
- Officer Street Survival
- Pistol Qualification – **DOJ APPROVED (09-30-03)**
- Use of Force Continuum
- Verbal Judo

Additionally, IPS completed development of sixteen (16) lesson plans in September 2002 for in-service training. The following lesson plans were created and forwarded to DOJ:

- Administrative Misconduct Investigation Policy & Procedures using the Preponderance of Evidence Standard
- Arrest, Custody, and Restraint Procedures
- Bias-related Hate Crimes – **DOJ APPROVED 05-16-03**
- Canine Policies and Procedures
- Command Accountability – **DOJ APPROVED 11-25-02**
- Communication and Interpersonal Relationship Skills – **DOJ APPROVED 11-25-02**
- Crime Scene Preservation – **DOJ APPROVED 05-16-03**
- Cultural Diversity and Sensitivity Awareness
- Defensive Tactics – **DOJ APPROVED 05-16-03**
- Ethics, Integrity, and Professionalism – **DOJ APPROVED 11-25-02**
- Interview and Interrogation
- Theories of Motivation and Leadership – **DOJ APPROVED 11-25-02**
- Use of Force and Use of Force Continuum (with manual)
- Use of Force Incident Report Form
- Use of Force Review Board

▪ Verbal Judo Recertification – **DOJ APPROVED 11-25-02**

As noted above, many of the lesson plans were subsequently approved by DOJ. DOJ provided comments on both the In-Service Lesson Plans and on the Use of Force Curriculum Lesson Plans on November 25, 2002. On March 19, 2003, MPD submitted ten (10) revised lesson plans to DOJ. DOJ provided comments on May 16, 2003 on the lesson plans that were submitted. MPD is currently working on incorporating those comments. DOJ also provided updates regarding various outstanding IPS-related deliverables on September 30, 2003. DOJ provided written approval for seven use of force lesson plans pursuant to MOA Paragraph 119 and 122 as outlined above.

On December 31, 2003 MPD submitted its Semi-Annual Review of our Use of Force Curriculum prepared by the Curriculum Development Specialist at IPS. These reviews are required by MOA Paragraph 119 to be submitted to both DOJ and the OIM.

For the most recent review, the CDS devoted a significant amount of time to focusing on MPD's In-Service Pistol Recertification Curriculum. The specific courses that were evaluated included Pistol Re-certification for the Day, Evening, and Midnight shifts. As a result of the review, as well as the CDS's effort to align all instructional materials to the Maryland Post Corrections Training Center (MPCTC) model, the Pistol Recertification lesson plan is being rewritten. In the new version, Range 2000 and Simmunitions will be considered separate instructional components and will have separate lesson plans. This format will allow the CDS to more accurately track skill development and assess student mastery. These lesson plans will be forwarded to DOJ for approval upon their completion.

In addition to submitting the semi-annual review, MPD also submitted a revised Pistol Recertification lesson plan to DOJ on December 31, 2003. MPD had originally submitted the plan to DOJ on July 24, 2002, and the plan was subsequently approved by DOJ on September 30, 2003. Since that time, MPD has made several changes to the curriculum including updates to reflect the requirements of the DOJ-approved *Use of Force General Order*.

“MPD revised the Pistol Performance Checklist (MOA Paragraph 142) to more accurately rate the three stages of Pistol Recertification. The new checklist increases instructional continuity by establishing cross-cutting performance goals for “Live Fire”, “Range 2000”, and “Simmunitions.”

Finally, MPD revised the Pistol Performance Checklist (MOA Paragraph 142) to more accurately rate the three stages of Pistol Re-certification. The new checklist increases instructional continuity by establishing crosscutting performance goals for “Live Fire”,

"Range 2000", and "Simmunitions". The checklist was provided to DOJ on December 31, 2003 and a copy of the checklist can be found in the Appendix of this report.

Paragraphs 136 and 137 of the MOA require MPD, in part, to develop and implement a formal instructor-training course, subject to the approval of DOJ, to ensure that instructors receive adequate training to enable them to carry out their duties. Based on the renegotiated dates of the first modification of the MOA¹⁷, MPD notified DOJ on December 31, 2002 that in lieu of contracting with a new vendor for the Instructor Certification Program, IPS had evaluated and selected the State of Maryland Police and Corrections Training Commission Enhanced Instructor Certification Course as the means for complying with Paragraphs 136 and 137 of the MOA. MPD feels that the benefits of selecting this program include the ability to have instructors certified in a timely fashion as certification courses are offered every month. MPD also anticipates a cost-savings by using Maryland's program as MPD will pay on a per student basis. On September 30, 2003, DOJ notified MPD that it is requesting that the OIM observe and evaluate the Maryland program to ensure compliance with the MOA. MPD looks forward to the OIM's comments on this program.

As previously reported, IPS representatives continue to work with the Office of Citizen Complaint Review to develop specialized training on use of force to members of the Citizen Complaint Review Board (CCRB) and OCCR complaint examiners. This training will aid both CCRB and the complaint examiners in their duties. IPS has also continued work on developing a curriculum for OCCR investigators for the upcoming year (MOA Paragraph 96). In addition, OCCR sent representatives to an informal session with several MPD recruit classes in order to discuss OCCR's mission and responsibilities. Both IPS and OCCR feel the session provided MPD recruits with a good understanding of OCCR's roles and responsibilities.

Finally, IPS met with the CMT during the last quarter to discuss various issues surrounding MOA compliance and plans to continue those meetings as needed. IPS is continuing its efforts to ensure full compliance with the MOA.

Personnel Performance Management System

The Metropolitan Police Department and the District of Columbia have committed to develop and fully implement the Personnel Performance Management System (PPMS), a computerized relational database for maintaining, integrating, and retrieving data necessary for supervision and management of the Police Department and its personnel.

¹⁷ See "Joint Modification No. 1 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2002," paragraph 7.

The computerized data compiled as part of the PPMS will be used regularly and affirmatively by the Metropolitan Police Department to promote civil rights integrity and best professional police practices.

As previously reported, MPD acknowledged that it had not met the original PPMS timetables set forth in the MOA, and Chief Ramsey was not satisfied with the progress made on the project. He recognized that the Department's efforts in this area needed to be enhanced.

Accordingly, Chief Ramsey reorganized the MPD Information Technology Division (MPD-IT), and appointed a new Chief Information Officer (CIO) who reports directly to him. In turn, the CIO appointed a Director for the PPMS project to ensure that the PPMS program is treated as a priority. The Director of the PPMS Project has established and staffed a Project Management Office (PMO) for PPMS that is devoted to acquiring the PPMS system and ensuring that PPMS is implemented effectively. Chief Ramsey has also taken an active role in personally overseeing the project. Accordingly, MPD, DOJ and the City were able to reach agreement on a second modification to the MOA that provided revised deadlines for all PPMS-related MOA deliverables.¹⁸ The modification provides for PPMS being developed according to the following major milestones:

Selected PPMS Modified Deliverable Dates

Requirement	Deadline	MOA Paragraph
Select PPMS Contractor	September 16, 2003	114b
Complete Beta Version of PPMS for DOJ and OIM Testing	June 25, 2004	114d
Fully Implement PPMS System	February 25, 2005	114e

As noted earlier, MPD continued to devote significant time and resources to PPMS efforts this quarter. Since the signing of the MOA Modification in September, MPD has engaged in a myriad of PPMS-related activities. During the month of October, MPD engaged in fourteen (14) Joint Application Development (JAD) sessions in order to finalize system requirements for the PPMS.

The JAD methodology was developed by IBM in the late 1970's. The JAD process consists of the vendor and the end users holding a series of workshops to identify the necessary requirements for the computer system. By involving the end-user in the development process, requirements can be defined much more quickly, and users begin to have a sense of ownership over the system since they are involved from the

¹⁸ See "Joint Modification No. 2 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2002"

beginning. The JAD process also capitalizes on the knowledge base of the users who best understand what they need from the system in order to do their jobs, and helps to develop communication channels early between the information technology staff and the end users.

As mentioned above, fourteen (14) JAD sessions were conducted. The JAD session topics were identified in order to provide an opportunity to determine how all of the PPMS MOA requirements, along with additional requirements identified in MPD's Statement of Work (SOW) fit with the vendors existing product, *Evalis*. The identified topics appear below:

JAD Session Topics and Schedule

JAD Title	Date
1. Assignment, Rank, Education, and Military History JAD	October 27, 2003
2. Canine JAD	October 27, 2003
3. Commendations JAD	October 28, 2003
4. Complaints JAD	October 28, 2003
5. Employee Injury JAD	October 29, 2003
6. Incident Report JAD (Use of Force and UFIR)	October 29, 2003
7. Administrative & Criminal Investigative JAD	October 30, 2003
8. Lawsuits JAD	October 30, 2003
9. Management & Supervision JAD	October 31, 2003
10. Outside Employment JAD	October 31, 2003
11. Vehicle Pursuit JAD	November 4, 2003
12. Traffic Accident JAD	November 4, 2003
13. Training JAD	November 5, 2003
14. Marketing Campaign Focus Group JAD	November 5, 2003

In order to prepare for the JAD sessions, the PPMS PMO organized a series of training sessions for the MPD members who would be involved. *Evalis* familiarization training was held in the computer labs at IPS prior to the JAD sessions. Six sessions were held to give JAD participants an overview of the capabilities of the *Evalis* product. Familiarity with *Evalis* was very important so that JAD participants could identify what customizations would need to be made to *Evalis* to ensure it was MOA compliant and that it allowed MPD end users to do their job efficiently and effectively. IBM/CrisNet also coordinated two (2) half-day JAD Overview Sessions to provide participants with an understanding of their roles and responsibilities. All JAD participants were required to attend a Familiarization Session and a JAD Overview Session prior to participating in the JAD sessions. Both the Familiarization Training and the JAD Overviews provided an excellent baseline of knowledge to JAD participants in preparation for the actual JAD Sessions.

Chief Ramsey indicated that he wanted to ensure that there was an appropriate cross-section of users that attended the JAD sessions to make sure that all requirements were

identified. Accordingly, the PMO used a combination of volunteers and identified subject matter experts to round out the JAD sessions. Over seventy (70) members of the Department, both sworn and civilian, participated in the JAD sessions. A wide range of ranks were represented in the sessions, and the FOP was also invited to send participants to any JAD sessions they were interested in. MPD is pleased to report high participation from the FOP during the JAD sessions. MPD feels that the information provided by FOP members will aid in the development of PPMS, and appreciates their continued participation in PPMS activities.

Departments and Units represented in the various JAD sessions include:

- Second District
- Third District
- Fourth District
- Fifth District
- Sixth District
- Seventh District
- Fraternal Order of Police
- Institute of Police Science
- Compliance Monitoring Team
- Office of Internal Affairs
- Force Investigation Team
- Information Technology
- Office of Corporate Support
- Major Narcotics
- Medical Services Division
- Canine Unit
- Office of Quality Assurance
- Office of the General Counsel
- Human Services
- Major Crash
- Directive Development
- Office of Professional Responsibility
- Office of Organizational Development
- Department Disciplinary Review Office
- Labor Relations
- Recruiting

During each JAD session, "Team Leads" were identified. The role of the Team Lead was to ensure that the notes from the session were reviewed and that they captured all of the discussion that took place. Notes from each JAD session were placed on the Department's Intranet so that all participants could review the notes. The Intranet also provided a "bulletin board" feature where people could post questions or items that may have been missed in the notes. JAD Team Leads then had an additional meeting with the IBM/CRISNet Team to review the comments on the Intranet as well as the session notes to ensure completeness and accuracy.

MPD committed a great deal of resources to the JAD sessions during the last quarter. JAD participants supplied a wealth of information to the developers that will provide the "blueprint" for PPMS customizations.

In addition to the JAD sessions, MPD also submitted several PPMS-related MOA deliverables during this reporting period. On November 18, 2003, MPD submitted a draft PPMS Protocol¹⁹ to DOJ for technical assistance review. As previously reported,

¹⁹ MOA Paragraphs 111, 112, and 114c

MPD requested an "initial" submission date of November 18, 2003 for the *PPMS Protocol*. Even though the system will not be fully implemented for over a year,²⁰ MPD wanted DOJ to begin the review process of the *PPMS Protocol* as soon as possible to ensure that the protocol is approved when the system becomes operational. While MPD appreciates DOJ's desire to receive final products for review, MPD also knows that the required protocol will change and grow over the course of PPMS development. Accordingly we requested using a technical assistance approach (TA) to having DOJ review the protocol. This approach will enable MPD to obtain feedback for the protocol early on as it continues to be developed over the next year. MPD has agreed to submit the protocol for final approval when PPMS beta-testing begins.

MPD formed a PPMS Protocol Work Group Team that will focus on completing the general order in timely consultation with DOJ. Representatives on the Work Group include members from the PPMS PMO, Directive Development, the Office of Internal Affairs, the Fraternal Order of Police, the Office of Quality Assurance, Operations, and the Compliance Monitoring Team.

As part of the Second Modification to the MOA, MPD agreed to provide a plan for compliance with MOA Paragraph 113 on November 14, 2003. MOA Paragraph 113 reads,

"The City shall maintain all personally identifiable information about an officer included in PPMS during the officer's employment with MPD and for at least five years thereafter (unless otherwise required by law to be maintained for a longer period). Information necessary for aggregate statistical analysis shall be maintained indefinitely in PPMS. On an ongoing basis, MPD shall enter information in PPMS in a timely, accurate, and complete manner, and maintain the data in a secure and confidential manner."

However, on November 14, 2003, MPD requested that DOJ provide an extension until January 5, 2004 to complete the plan for compliance. Although the PPMS PMO had identified the suggested elements of "personally identifiable" information that will be contained within PPMS, the suggested fields were subject to change in the final product

PPMS Vision

To promote and maintain the highest professional standards of performance and accountability while fostering a relationship of trust with all members of the MPDC and the public.

PPMS Mission

To track performance in a fair and impartial manner in order to facilitate timely and effective support and guidance to all MPDC members.

²⁰ The system is scheduled to be fully operational on February 25, 2005.

based on input from the JAD sessions described above. Accordingly, MPD felt they could not provide a final plan of items to DOJ by the November 14, 2003 deadline.

Accordingly, MPD requested an extension for completing the plan for compliance until January 5, 2004. On December 3, 2003, DOJ granted MPD's request. MPD feels that this extension will allow for a much more complete plan to be submitted to DOJ for review.

As part of the Second Modification to the MOA, MPD also agreed to provide a plan for compliance with MOA Paragraph 117 by October 17, 2003. MOA Paragraph 117 reads,

“OPR shall continue to be responsible for developing, implementing, and coordinating MPD-wide risk assessments. OPR shall be responsible for the operation of PPMS, and for ensuring that information is entered into and maintained in PPMS in accordance with this Agreement. OPR further shall provide assistance to managers and supervisors who are using PPMS to perform the tasks required hereunder and in the protocol adopted pursuant hereto, and shall be responsible for ensuring that appropriate standardized reports and queries are programmed to provide the information necessary to perform these tasks.”

MPD submitted its plan for compliance to DOJ on October 17, 2003. In the plan, OPR detailed its commitment to continuing its current practice of receiving, assigning responsibility for, and monitoring the timeliness and proper completion of all investigations in accordance with MOA requirements. OPR also proposed a number of activities for purposes of conducting MPD-wide risk assessments. Among the proposed activities were:

- OPR will monitor in PPMS the number and types of all allegations against members by Districts, units, and subunits, with particular focus on civil rights integrity issues involving violations of the Fourth and Fifth Amendments.
- OPR will continue to ensure Managers and Supervisors evaluate and pro-actively address issues that have an adverse impact on the performance, civil rights integrity, and/or the community policing efforts of members under their command.
- OPR will develop and implement a formal “Investigation Extension Policy” with detailed procedures to ensure proper approval and documentation of *special circumstances* for investigations that exceed the 90-day closure requirement.
- OPR will track and review in PPMS, all investigations from the disciplinary process, through the appeals and arbitration processes if applicable, with a view towards identifying training and policy needs as they relate to losses due

to investigative missteps, technicalities, or other legal issues. OPR will develop and implement an annual report and notification process to the Chief of Police, the Director, Institute of Police Science, and the Senior Executive Director, Office of Organizational Development, which will also include negative reports, if applicable. The report will outline any training or policy needs identified and recommend appropriate action to include the creation or revision of training programs and curricula and/or the creation or revision of existing Department policies in order to address the specified issues.

- OPR will investigate and adjudicate any allegations of abuse of the PPMS system.

MPD received comments from DOJ on the plan for compliance on December 31, 2003. MPD is currently reviewing those comments.

In addition to submitting deliverables, MPD also contacted both DOJ and the OIM regarding MOA Paragraph 114d. MOA Paragraph 114d calls for both the OIM and DOJ to have the opportunity to participate in the beta testing of the PPMS system. MPD requested a meeting with both the OIM and DOJ to discuss the various issues surrounding this requirement. Specifically, MPD wanted to discuss whom from each team will be participating in the testing as well as the anticipated scope of the testing.

While MPD does not foresee any problematic issues with this requirement, MPD felt it was important to meet with both DOJ and the OIM to ensure all three parties were in agreement on the intention of the paragraph. MPD felt this meeting would help to ensure that MPD plans accordingly to meet expectations when beta testing begins in June 2004.

The first meeting was held on November 25, 2003. Members from DOJ, the OIM, and MPD were in attendance. The meeting served to initiate discussions and planning activities for the PPMS beta test. The meeting addressed each party's role and responsibilities, as well as the components and requirements of the beta test.

MPD agreed to develop a draft beta test plan and to distribute the plan to both the OIM and DOJ for review. Everyone agreed that it would be important to have regularly scheduled Beta Test Planning Meetings. The meetings will begin during the next reporting period.

During this quarter, MPD also continued its practice of holding weekly meetings with Chief Ramsey, the CIO, the PPMS Project Director, and the PPMS Steering Committee so that Chief Ramsey and the executive stakeholders can be briefed on progress with PPMS efforts. The Steering Committee is composed of command staff members of MPD that will provide guidance and oversee the work of the PPMS Project Team.

The PPMS Project Management Office also continued its practice of holding weekly team meetings to discuss PPMS implementation issues. Both DOJ and the OIM are invited to, and frequently attend, these weekly team meetings. The main purpose of the team meetings is to ensure that all of the Department stakeholders are kept informed as MPD moves forward with PPMS. Among the MPD units represented at the Team meetings are the Institute of Police Science, Human Services, the Office of Organizational Development, the Office of Quality Assurance, the Office of the General Counsel, and the CMT. MPD has also included representation from the Fraternal Order of Police (FOP) as well as a representative from one of the MPD civilian bargaining units. MPD feels it is very important to include the perspectives of the bargaining units in developing this system.

MPD is very pleased with the significant progress made this quarter in moving forward with PPMS including completing fourteen (14) JAD sessions, submitting a draft PPMS General Order to DOJ for review and comment, and submitting additional MOA-required deliverables. MPD is very proud of the accomplishments made on PPMS this quarter, and will continue to treat the implementation of the PPMS as a priority for the Department.

Performance Evaluation System

The Metropolitan Police Department submitted a draft *Enhanced Performance Evaluation System Protocol* (MOA Paragraph 118) to DOJ on November 8, 2002. DOJ provided comments on the protocol on May 2, 2003. MPD provided a status report on those comments on September 30, 2003. MPD's Office of Human Services analyzed the recommendations provided by DOJ on May 2, 2003. In the majority of instances, the Department indicated that we accept the recommendations of the Department of Justice, and has committed to implementing those recommendations as it revises the *Performance Management System (PMS) for Sworn Members Serving in the Ranks/Positions of Officer, Agent, and Sergeant General Order*.

As previously reported, however, in accordance with Article 27 of the current Collective Bargaining Agreement between the Metropolitan Police Department and the Fraternal Order of Police, the Department must give notice of any recommended changes to its performance evaluation systems to the FOP.

MPD also notified DOJ that all recommendations that pertain to MPD's Performance Management Program (PMP) will need to be pursued with the D. C. Office of Personnel since the PMP is a citywide performance evaluation system. On October 6, 2003 DOJ provided comments on MPD's update. MPD is currently reviewing those comments.

Department of Justice

Since the creation of the Compliance Monitoring Team in February 2002, there has been significant, sustained interaction between the Metropolitan Police Department and the Department of Justice. Notwithstanding telephone calls and correspondence, there have been numerous other contacts between the two agencies in order to continue the established dialogue.

During this reporting period, representatives from MPD and DOJ met at the monthly "all-hands" meeting held at the Office of the Independent Monitor, as well as monthly DOJ and CMT Meetings that are held on the third Thursday of every month.

MPD and DOJ have continued regular communications through these meetings, telephone conversations, conference calls, and correspondence. The level of cooperation between the MPD and DOJ remains high. DOJ has also provided a representative to the PPMS Project Team, as well as the newly formed PPMS Beta Test Committee. MPD is extremely pleased with the relationship that exists with the U.S. Department of Justice. The Metropolitan Police Department will continue its partnership with the Department of Justice to jointly complete the requirements of this Memorandum of Agreement.

Fraternal Order of Police

The Fraternal Order of Police (FOP) is the Labor Union for all police officers, technicians, detectives, and sergeants on the Metropolitan Police Department. The Metropolitan Police Department recognizes the importance and value of including the FOP in Memorandum of Agreement endeavors.

However, the relationship between MPD and the FOP has been challenging. The FOP had initially declined to participate in MOA-related endeavors, and has previously filed an Unfair Labor Practice (ULP) Complaint against the Metropolitan Police Department with the District of Columbia Public Employees Relations Board (PERB). The Labor Union cited alleged changes in terms and conditions of employment relating to the Memorandum of Agreement as the reason for the filing.

As previously reported, the PERB stated that the filing of the Unfair Labor Practice charge fell outside of the 120-day window established by PERB Rule 520.4 for filing such charges. The Hearing Examiner did not address the merits of the case. Exceptions were filed by the union and opposed by the agency. A decision from the PERB will be forthcoming.

However, MPD continues its efforts to keep the FOP informed regarding the MOA. On October 1, 2003, members of the PPMS PMO and the CMT met with FOP leadership to discuss the status of the MOA and PPMS. The FOP raised a number of questions regarding PPMS and the MOA. This first meeting focused solely on PPMS items, but a subsequent meeting was held on October 9, 2003 with the OPR Assistant Chief, the CMT, and FOP leadership. The FOP discussed their continuing concerns with the MOA and agreed to provide MPD with a letter outlining those concerns. The FOP submitted their letter on October 23, 2003. One of the initial results of the meeting and the FOP letter was the drafting of the proposed "Reportable Incident Form" to replace the UFIR as the means of tracking members pointing their weapons at or in the direction of another person. As mentioned earlier, Chief Ramsey sent a letter to DOJ requesting this change on December 10, 2003. MPD plans to continue working with the FOP regarding the other issues they have raised during the next quarter.

FOP representatives have continued their involvement in the development of PPMS. FOP members played an active role in the JAD sessions, served on the PPMS Protocol Work Group, and continued to attend the weekly PPMS Team meetings.

FOP representatives have also continued their involvement in the development of PPMS. As mentioned earlier, FOP members played an active role in the JAD sessions, served on the PPMS Protocol Work Group, and continued to attend the weekly PPMS Team meetings. MPD has found the input provided by the FOP to be very useful as the Department proceeds with PPMS implementation.

MPD also continued its discussions with the FOP regarding the Department's draft Discipline General Order (MOA Paragraph 105). DOJ provided comments on the order on August 25, 2003. In the letter, DOJ stated that they "appreciate and commend the efforts of MPD and the local Fraternal Order of Police in working collaboratively to resolve their differences and to identify issues for collective bargaining." On September 16, 2003 a copy of that letter was shared with the FOP in a continued effort to work together.

MPD believes that the inclusion of the FOP in discussion of these issues as well as keeping them informed on MOA progress has been useful to both parties. MPD hopes to continue this process as we move forward with the MOA.

I n d e p e n d e n t M o n i t o r

The Memorandum of Agreement requires that the Metropolitan Police Department and the Department of Justice jointly select an Independent Monitor to review, report, and assist on matters related to the Agreement's implementation (MOA Paragraph 161). On

March 28, 2002, the Metropolitan Police Department and the law firm of Fried, Frank, Harris, Shriver & Jacobson jointly announced that Michael R. Bromwich had been selected as the Independent Monitor. Mr. Bromwich is a partner at the firm, and is head of the internal investigations, compliance and monitoring practice group there.

The Independent Monitor completes and disseminates quarterly progress reports regarding MPD's Memorandum of Agreement compliance efforts. The next report is scheduled to be completed later this month. Previous reports, are available at the Independent Monitor's website at www.policemonitor.org.

The Independent Monitor continues to host monthly "all-hands" meetings in which all MOA stakeholders meet including the Chief of Police, DOJ, the Office of Citizen Complaint Review, Office of the Corporation Counsel, and the Compliance Monitoring Team among others. These meetings occur on the first Monday of each month.

Additionally, the Compliance Monitoring Team has been assisting the OIM by facilitating document and meeting requests throughout the Department. During this reporting period, the Compliance Monitoring Team has been assisting the Independent Monitor to facilitate compliance activities including:

- Reviewing Chain of Command Investigations
- Reviewing Office of Internal Affairs investigations
- Reviewing FIT investigations
- Reviewing selected disciplinary records
- Reviewing In-Service, ASP Recertification Training
- Reviewing Firearms Training
- Reviewing Use of Force Incident Reports (UFIR)
- Tracking the development of new policies

During this quarter, the OIM spent a substantial amount of time reviewing this quarter's selected sample of MPD's use of force and misconduct investigations.

During this quarter, the OIM spent a substantial amount of time reviewing this quarter's selected sample of MPD's use of force and misconduct investigations. The CMT and MPD's Office of Internal Affairs devoted time and resources this past quarter to providing the OIM with copies of the investigations. MPD looks forward to the OIM's analysis of their review.

As discussed earlier, the OIM has also continued their efforts in defining how they will measure "substantial compliance" for the MOA. The MOA states that,

"The Agreement shall terminate five years after the effective date of the Agreement if the parties agree that MPD and the City have substantially complied with each of the

provisions of this Agreement and maintained a substantial compliance for at least two years.”²¹

On October 1, 2003, MPD provided comments to the OIM on their initial draft of substantial compliance standards. The OIM plans to circulate draft definitions for the remainder of the MOA requirements during the upcoming quarter. MPD looks forward to this document being issued as it will help ensure MPD's efforts are focused on ensuring compliance with all paragraphs of the MOA.

Finally, the Compliance Monitoring Team continues to closely monitor MPD's costs associated with the Office of the Independent Monitor. With the assistance of the D.C. Office of Contracting and Procurement and MPD's Accounts Payable office, the CMT continues to actively review OIM invoices to control costs and ensure accountability.

Conclusion

The Metropolitan Police Department is committed to completing the balance of reforms contained in the Memorandum of Agreement. We are pleased with the significant progress made by the Department this quarter. During this reporting period, MPD made substantial progress on the PPMS system including completion of fourteen (14) JAD sessions and the submission of additional PPMS deliverables. MPD also continued submitting additional MOA-required deliverables to DOJ for review including the revised Canine Teams General Order (MOA Paragraphs 44-46), the revised Specialized Mission Unit General Order (MOA Paragraphs 150-158), the revised Use of Force Incident Report (MOA Paragraph 53), and the Semi-Annual Use of Force Curriculum Review (MOA Paragraph 119). MPD also received DOJ approval for three important MOA-related policies:

- Serious Misconduct General Order (MOA Paragraph 72)
- Community Outreach Program for Filing Citizen Complaints (MOA Paragraph 91)
- Force Investigation Team Organizational Plan and Operations Manual (MOA Paragraph 57)

MPD and DOJ also continued working with the OIM in helping to define the substantial compliance standards for each paragraph of the MOA.

The Metropolitan Police Department is confident that it is well on its way to becoming fully compliant with the provisions of the MOA and becoming the national model on how to uphold the rule of law while using force only when and to the extent necessary.

²¹ MOA Paragraph 182

Attachments

- *MPD-DOJ Memorandum of Agreement Completion Matrix Report*, December 31, 2003
- Revised *Use of Force Incident Report* and *Use of Force Incident Report Supplement*, MOA Paragraph 53, December 10, 2003
- *MPD Reportable Incident Form* and *MPD Reportable Incident Form Supplement*, MOA Paragraph 53, December 10, 2003
- Revised *Specialized Mission Unit After-Action Report*, MOA Paragraphs 150-158, December 31, 2003.
- Pistol Performance Checklist, MOA Paragraph 142, December 31, 2003.